

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

05 JAN -6 PM 3:53

DARLINGTON AMADASU

Case No: C - 1- 01 - 210

Plaintiff

Judge:

D Lott

Magistrate:

Black

-V-

JAMES R. DONOVAN, MD

**PLAINTIFF'S MOTION TO STRIKE UNTIMELY OHIO
DEFENDANTS' REPLY MEMORANDUM IN SUPPORT
THEIR MOTION TO DISMISS**

et al

Defendants

Individually, personally, officially, & jointly

The Ohio defendants' Reply Memorandum in Support of Their Motion To Dismiss should be stricken as untimely.

Plaintiff's opposition to Ohio defendants' motion to dismiss was served personally directly to defendants' counsel on 12/20/04. Pursuant to FRCP 6(a) and S.D. Ohio Civ.R. (Local Rule) 7.2(a)(2) the defendants' Reply was due before or on 12/31/04 but was belatedly filed on 01/03/05.

Defendants failed to comply with the requirements of FRCP 6(b) and Local Rule 6.1, which mandate proper motion for extension of time by failing to seek court order for enlargement of time to file and serve their Reply.

Local Rule 6.1(b) provides in pertinent part that all extensions...must be upon motion. Defendants unilaterally and illegally extended the time without leave of the court constitutes violation of the Rules.

The Supreme Court reversed and ruled in Thompson v. INS, 375 U.S.384 (1964) that the district court erred in finding a motion timely. Here, this court should find defendants' Reply untimely and thus, their Reply should be stricken.

The Ohio defendants' motion to dismiss has been mooted and barred by their "unclean hands" on the grounds set forth in plaintiff's opposition thereto.

The Ohio defendants have pattern and scheme to violate the Rules and disobey the court order with

impunity and, yet, they are seeking baseless relief against plaintiff who has been diligently in good faith comply with the rules, court orders and cooperate with all defendants who continue to fail to cooperate with the plaintiff.

Therefore, the Ohio defendants' Reply should be stricken, and their motion to dismiss should be denied.

Respectfully submitted,



Darlington Amadasu,
Plaintiff, Lay Pro se

CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing was served on Justin Flamm and Ramiros Canales by fax on 1/6/05

